

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER

AND

SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 2637/Ahd/2025

(निर्धारण वर्ष / Assessment Year : 2015-16)

Elegance Reality 2, Bhaktinandan, Opp. Jeet Tenaments, Near Sai Chowkdi, Manjalpur, Vadodara, Gujarat- 390011	बनाम / Vs.	ACIT Circle 1(1), Vadodara
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAEFE2127Q		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Ms. Urvashi Shodhan, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri Alpesh Parmar, CIT. DR

Date of Hearing	04/02/2026
Date of Pronouncement	09/02/2026

ORDER

PER ANNAPURNA GUPTA, AM:

The present appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi (hereinafter referred to as “CIT(A)”) dated 25.11.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2015-16.

2. The grounds of appeal raised by the assessee read as under:

- “1. *Ld. CIT (A) erred in law and on facts in dismissing challenge to validity of reopening by AO based on procedural defects & jurisdictional errors.*
2. *Ld. CIT (A) erred in law and on facts confirming action of jurisdictional AO issuing notice u/s 148 dated 11.06.2021 under the old regime for the year under consideration not taking cognizance of the judgment of Hon'ble Apex Court in case of Union of India v Rajiv Bansal [469 ITR 46] submitted.*
3. *Ld. CIT (A) ought to have held the assessment time barred when the documents/evidence relied upon to reopen the assessment were handed over to the appellant after 30 days of issuance of notice u/s 148A(b) of the Act as mandated by Apex Court in Ashish Agrawal [2022] 138 taxmann.com 64.*
4. *Ld. CIT (A) erred in law and on facts confirming invocation of Section 147 by AO as valid for assessment framed on the basis of loose papers allegedly pertaining to the appellant found during search proceedings at Akshar group the Special Provision of Section 153C of the Act would be applicable.*
5. *Ld. CIT (A) erred in law and on facts confirming addition made by AO of Rs. 5, 63, 75, 000/- invoking Section 69 of the Act on erroneous plea that source of investment remained unexplained.*
6. *Levy of tax u/s 115BBE of the Act is unjustified. 6.*
7. *Levy of interest u/s 234B/234C & 234D of the Act is unjustified.*
8. *Initiation of penalty proceedings u/s 271(1)(c) of the Act is unjustified.”*

3. At the outset itself, Ld. Counsel for the assessee stated that on the legal ground raised by the assessee in Ground Nos.1& 2, the issue stands covered in favour of the assessee vide judgment of the ITAT in ITA No.1450/Ahd/2024 in case of DCIT vs. Hindva Builders, dated 01.01.2026. Ld. Counsel for the assessee stated that the challenge to the validity of the assessment framed in the present case was on the ground of limitation. He contended that the impugned assessment year was A.Y. 2015-16 and originally, notice for reopening of the case of the assessee was

issued u/s.148 of the Act on 11.06.2021, within the extended time period as per Taxation and Other laws (Relaxation of certain provisions) Ordinance, 2020 (in short, "TOLA"). That pursuant to the judgment of the Hon'ble Supreme Court in the case of Union of India and Ors. Vs. Ashish Agrawal, [2022] 444 ITR 01 (SC), the notice issued u/s.148 of the Act was deemed to be notice u/s.148A(b) of the Act as per the amended provisions (new regime) relating to the reopening of assessment which had come into operation w.e.f. 01.04.2021. That, thereafter, in accordance with the directions issued by the Hon'ble Supreme Court in the case of Ashish Agrawal (supra), the notice u/s.148 of the Act in this case was issued on 29.07.2022. Ld. Counsel for the assessee pointed out that in the case of Hindva Builders (supra), the ITAT noted that Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal, [2024] 469 ITR 46 (SC) had noted that the Revenue had conceded before the Hon'ble Apex Court to the effect that so far as the A.Y. 2015-16 is concerned, the Revenue could not have issued the notices u/s.3(1) of TOLA considering the time period as prescribed u/s.149 of the Act w.e.f. 01.04.2021. He pointed out that in the said case, i.e Hindva (supra) the DR had conceded that as per the said judgment of the Hon'ble Apex Court in the case of Rajeev Bansal (supra), the reopening of assessment for A.Y. 2015-16 in the extended time period by TOLA between 01.04.2021 to 30.06.2021 was bad in law and barred by limitation. Our attention was drawn to the findings of the ITAT in this regard at para 3 to para 4 of the order as under:

"3. At the outset, the Ld. Counsel for the assessee has raised the legal/jurisdictional issue that the impugned addition was made by the Assessing

Officer (AO) by way of reopening of the assessment u/s.147/148 of the Act. That pursuant to the judgement of Hon'ble Supreme Court in the case of "Union of India and Ors. vs. had Ashish Agrawal (2022) 444 ITR 01 (SC)" notice issued u/s.148 between 01/04/2021 to 30/06/2021 for AY 2015- 16 was deemed to be notice u/s.148A(b) of the Act as per the amended provisions (new regime) relating to the reopening of assessment which has come into operation w.e.f. 01/04/2021. That, thereafter, as per directions issued by the Hon'ble Supreme Court in the case of "Ashish Agrawal (supra)", the notice u/s.148 of the Act, in this case, was issued on 30/08/2022. The Ld. Counsel has further submitted that this issue was also dealt with by the Hon'ble Supreme Court in the case of "Union of India vs. Rajeev Bansal (2024) 469 ITR 46 (SC)" and the Revenue therein, had conceded to the effect that so far as AY 2015-16 is concerned, the Revenue could not have issued the notices u/s.3(1) of "Taxation and other laws" (Relaxation of certain provisions) Ordinance, 2020 (in short, "TOLA") as considering the time period as prescribed u/s.149 of the Act, with effect from 01.04.2021, three years would be over on 31/03/2019, which is prior to coming into force of "TOLA" and six years would be completed on 31/03/2022 which is after operation of "TOLA". In such circumstances, notices for AY 2015-16 were held to be invalid by the Hon'ble Supreme Court in the case of "Rajeev Bansal (supra)". The Ld. Counsel has, therefore, submitted the reassessment notice issued u/s.148 of the Act for AY 2015-16, as per concession given by the Revenue before the Hon'ble Supreme Court, was invalid and, therefore, the notice issued u/s 148 of the Act for the assessment for AY 2015-16 after coming into operation of the provisions of section 147 of the Act under new regime, w.e.f. 01/04/2021, was invalid and, therefore, the very reopening of the assessment was bad in law.

3.1. The Ld. DR has also fairly conceded that as per the judgement of the Hon'ble Supreme Court in the case of "Union of India vs. Rajeev Agrawal (supra)", the reopening of the assessment for AY 2015-16 was bad in law being barred by limitation.

3.2. The Ld. Counsel, in this respect, has relied upon the decision of Hon'ble Gujarat High Court dated 14/07/2025 with the lead case in R/Special Civil Application No.17443/2022 along with various other petitions, wherein, the Hon'ble Jurisdictional High Court on identical issue has made the following observation:

"11. During the course of hearing before the Hon'ble Apex Court, Revenue conceded to the effect that so far as Assessment Year 2015-2016 is concerned, Revenue could not have issued the notices under section 3(1) of TOLA as considering the time period as prescribed under section 149 of the Act with effect from 01.04.2021, three years would be over on 31.03.2019 which is prior to coming into force of TOLA and six years would be completed on 31.03.2022 which is after operation of TOLA. In such circumstances, notices for Assessment Year 2015-2016 are held to be invalid by Hon'ble Apex Court in case of Rajeev Bansal (supra).

12. The Hon'ble Apex Court followed the decision of Rajeev Bansal (supra) in case of Deepak Steel and Power Ltd vs. Central Board of Direct Taxes reported in [2025] 174 taxmann.com 144 (SC) and after recording the

concession of the learned advocate for the department and in view of the concession given before the Apex Court by learned advocate appearing for the Revenue as recorded in para 19(f) of the judgment in case of Rajeev Bansal (supra), has quashed and set aside the notice issued after 31.03.2021 under TOLA for A.Y. 2015-16 as under:

"1. Leave granted.

2. These appeals arise from the order passed by the High Court of Orissa at Cuttack in Writ Petition (C) Nos. 2446 of 2023, 2543 of 2023 dated 1.2.2023 and 2544 of 2023 dated 10.02.2023 respectively by which the High Court disposed of the original writ petitions in the following terms: -

"1. The memo of appearance filed by Mr. S. S. Mohapatra, learned Senior Standing Counsel Department for Revenue on behalf of Opposite Parties is taken on record.

2. In view of the order passed by this Court on 1st December, 2022 in a batch of writ petitions of which W.P. (C) No.9191 of 2022 (Kailash Kedia v. Income Tax Officer) was a lead matter and the subsequent order dated 10th January, 2023 passed in W.P.(C) No.36314 of 2022 (Shiv Metallicks Pvt. Ltd., Rourkela v. Principal Commissioner of Income Tax, Sambalpur), the Court declines to entertain the present writ petition, but leaves it open to the Petitioner to raise all grounds available to the Petitioner in accordance with law including the grounds urged in the present petition at the appropriate stage as explained by the Court in those orders.

3. The writ petition is disposed of in the above terms."

3. We heard Mr. Saswat Kumar Acharya, the learned counsel appearing appellants (assessee) and Mr. Chandrashekhar, the learned counsel appearing for the revenue.

4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India and Ors. v. Rajeev Bansal, reported in 2024 SCC OnLine SC 2693, more particularly, paragraph 19(f) which reads thus:-

"19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020."

5. As the revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall completion during the prescribed under the taxation and other period laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation 25.6.2021. is concerned is dated 25.6.2021.

6. In view of the aforesaid, in such circumstances referred to above the original writ petition nos.2446 of 2023, 2543 of of 2023 and 2544 of 2023 respectively filed before the High Court of Orissa at Cuttack stands allowed.

7. The impugned notice therein stands quashed and set aside.”

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”19. In view of above, for the foregoing reasons, these petitions are also allowed. The impugned notices issued under section 148 of the Act for the Assessment Year 2015-16 are held to be invalid as same were issued during the extended period from 01/04/2021 to 30/06/2021 under TOLA.”

4. In view of the above stated legal position, since notice issued u/s.148 of the Act for AY 2015-16 has been held to be not valid being barred by limitation, therefore, the very reopening of the assessment in the year under consideration is also bad in law and the same is hereby quashed. Accordingly, the impugned assessment order is not legally sustainable and hence, the same is quashed. Therefore, without going into the merits of the case, the appeal of the revenue (ITA No.1450/Ahd/2024 for AY 2015-16) is hereby dismissed on this legal ground itself.”

4. Ld. DR fairly agreed with the above. He was unable to point out any distinguishing facts before us.

5. In view of the above, the legal ground raised by the assessee vis-a-vis the reassessment being invalid on account of the notice issued u/s 148 of the Act being barred by limitation, admittedly stands covered in favour of the assessee by the decision of the ITAT in the case of Hindva Builders(supra). The reopening of the assessment in the present case, relating to A.Y 2015-16, is therefore held to be bad in law and the order passed accordingly u/s 147 of the Act is hereby quashed.

6. Ground of appeal nos.1 & 2 are, therefore, allowed.

7. Since we have quashed the assessment order passed, the additions made to the income of the assessee and confirmed by the Ld.CIT(A) do not survive and the remaining grounds raised on the merits of the addition made, therefore, require no adjudication.

8. In the result, the appeal of the assessee is allowed in above terms.

This Order pronounced on 09/02/2026

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Ahmedabad; Dated 09/02/2026

S. K. SINHA

True Copy

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad